



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 5080-98
20 December 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this regard, the Board noted that you had performed your duties in an outstanding manner until being approved for length of service retirement, and there is no indication that your retention on active duty was erroneous. It also noted that under the provisions of 2056 of SECNAVINST 1850.4C, as interpreted by the Disability Evaluation System, "acute, grave" condition was one of recent onset and a life threatening nature, and that any "other deterioration" had to have been of a life threatening nature as well. As a general rule, a service member in your position would not have been found unfit for duty unless he had a condition which would be rated at 60% or higher he had been evaluated without regard to the presumption of fitness. In the Board's opinion, your condition was not "grave", and would not have been ratable above 20% by the DES under any circumstances, as you did not have "severe" intervertebral disc disease. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this

regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director